

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

LEROY LYNCH

PETITIONER

V.

NO. 4:22-CV-181-DMB-RP

STATE OF MISSISSIPPI

RESPONDENT

ORDER

On November 28, 2022, Leroy Lynch submitted a document to the United States District Court for the Northern District of Mississippi asserting he was “found guilty of a Capital Murder charge [in state court] without any evidence.” Doc. #1. United States Magistrate Judge Roy Percy “construe[d the document] as a petition for a writ of *habeas corpus* under 28 U.S.C. § 2254” and noted that Lynch had not “used the court’s standard form for such petitions” or paid the \$5.00 filing fee. Doc. #3. Accordingly, on December 2, 2022, Judge Percy ordered Lynch to (1) “complete and return [a standard] *habeas corpus* form within 21 days” and (2) within the same time frame, “either pay the filing fee ... or fill out [an] application to proceed *in forma pauperis*, complete the authorization for release, and have the authorized officer responsible for overseeing his prison account fill out the certificate of account, and mail to the Clerk’s Office.” *Id.* Judge Percy cautioned Lynch that “failure to comply with the requirements of this order may lead to the dismissal of his petition for failure to prosecute and for failure to comply with an order of the court.” *Id.*

Lynch did not comply with either directive. Based on this failure, on January 18, 2023, Judge Percy ordered Lynch to “show cause within fourteen (14) days ... why his case should not be involuntarily dismissed as provided by Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with an order of the court.” Doc. #4. Lynch responded to the

show cause order, asserting that delays in the mail and his ability to receive legal assistance in the institution where he is incarcerated prevented him from sending the documents within the timeline listed but that he “had send [sic] out [his] mail and done what were right.” Doc. #6 at PageID 93.

Despite his representations that he has complied with the Court’s previous orders, Lynch still has not submitted his habeas petition using the proper form and also has failed to submit a completed application to proceed *in forma pauperis* or pay the filing fee. Accordingly, pursuant to Federal Rule of Civil Procedure 41(b), this habeas action is **DISMISSED without prejudice** for failure to prosecute and failure to comply with a court order.

SO ORDERED, this 14th day of February, 2023.

/s/Debra M. Brown
UNITED STATES DISTRICT JUDGE